

AN ACT

relating to fraternal benefit societies in a hazardous financial condition.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 885.311, Insurance Code, is amended by amending Subsection (a) and adding Subsections (d) and (e) to read as follows:

(a) A fraternal benefit society shall provide in the fraternal benefit society's laws that if the society's reserves for any class of the society's benefit certificates become impaired, the society's supreme governing body or board of directors may require the certificate holders to pay the society an equitable proportion of the deficiency as determined by the governing body or board. The aggregate assessment for the impaired reserves may not exceed the total amount required to comply with Section 885.408.

(d) Not later than the 90th day before the proposed effective date of an assessment under Subsection (a), the fraternal benefit society shall file with the department an application for approval of the assessment and a statement sworn to by the president and secretary or corresponding officers of the society. The statement must:

(1) include:

(A) the terms of the assessment, including the proposed effective date; and

1 (B) a narrative statement of the financial
2 condition of the fraternal benefit society; and

3 (2) state that the assessment:

4 (A) received approval by a majority vote of the
5 supreme governing body or board of directors of the society; and

6 (B) complies with the requirements of this
7 section.

8 (e) After the department receives a completed application,
9 the commissioner may approve or disapprove the application. If the
10 commissioner does not approve or disapprove the application before
11 the 60th day after the date the department receives the completed
12 application, the application is considered approved. The
13 commissioner may impose an effective date earlier than the date
14 requested in the application if the earlier effective date is in the
15 best interests of the certificate holders.

16 SECTION 2. Section 885.407, Insurance Code, is amended to
17 read as follows:

18 Sec. 885.407. SOLVENCY. (a) If a fraternal benefit society
19 reports admissible assets greater than the society's liabilities in
20 an amount that authorizes the commissioner to place the society
21 under regulatory control and the commissioner reasonably believes
22 the society's hazardous financial condition will not be promptly
23 remedied without intervention by the department, the commissioner
24 may order the society to promptly seek and negotiate an agreement to
25 transfer in accordance with this section all benefit members,
26 benefit certificates, assets, and liabilities of the society to
27 another fraternal benefit society. A transfer under this section:

1 (1) may be by merger, consolidation, assumption, or
2 otherwise;

3 (2) constitutes an entire novation of each benefit
4 certificate transferred by the society in a hazardous financial
5 condition, and the receiving society is legally and contractually
6 responsible for each transferred certificate;

7 (3) must conclude before the deadline set by the
8 commissioner;

9 (4) may be approved by a vote of the majority of the
10 supreme governing body or board of directors of the society in a
11 hazardous financial condition, notwithstanding Section
12 885.063(a)(2)(C) or any provision of the society's laws to the
13 contrary; and

14 (5) is subject to approval by the commissioner.

15 (b) Not later than the seventh day before the date the
16 supreme governing body or board of directors of a fraternal benefit
17 society votes on a transfer proposed under Subsection (a), the
18 governing body or board shall provide the society's certificate
19 holders written notice of and an opportunity to comment on the
20 proposed transfer. If the governing body or board approves the
21 transfer, the governing body or board shall provide the certificate
22 holders' comments to the commissioner.

23 (c) The supreme governing body or board of directors of a
24 fraternal benefit society receiving benefit certificates pursuant
25 to a transfer under an agreement described by Subsection (a) may
26 suspend or modify qualifications for membership in the receiving
27 society to the extent necessary to permit the society to accept the

1 certificate holders of the society transferring certificates under
2 the agreement, notwithstanding any provision of the receiving
3 society's laws to the contrary.

4 (d) The commissioner may grant to a fraternal benefit
5 society that is not authorized to engage in the business of
6 insurance in this state the authority to service benefit
7 certificates transferred pursuant to Subsection (a) and fulfill all
8 obligations to the holders of the certificates. Commissioner
9 action under this subsection does not authorize the fraternal
10 benefit society to otherwise engage in the business of insurance in
11 this state.

12 (e) A transfer under Subsection (a) may be made to an
13 insurer that is not a fraternal benefit society if the insurer is
14 authorized to engage in the business of insurance in this state. A
15 holder of a certificate subject to a transfer as authorized by this
16 subsection is deemed to agree that any term in the certificate,
17 including a term that makes the certificate subject to the
18 transferring society's laws or that provides for maintenance of the
19 transferring society's solvency that is inconsistent with transfer
20 to an insurer that is not a fraternal benefit society, is void on
21 transfer of the certificate. The receiving insurer shall endorse
22 on a form approved by the commissioner each benefit certificate
23 received by a transfer made under this section to reflect any terms
24 of the certificate voided by this subsection. A certificate
25 holder's obligation to pay an outstanding assessment under Section
26 885.311 that is not released under the transfer agreement is not
27 released or voided by this subsection.

1 (f) The commissioner may request the attorney general bring
2 an action under Section 885.502 to terminate a fraternal benefit
3 society that fails to comply with an order under this section or
4 fails to remedy the financial condition that gave rise to the order.

5 (g) The powers and authority of the commissioner under this
6 section are cumulative and in addition to all other powers and
7 authority to remediate the financial condition of a fraternal
8 benefit society available to the commissioner. [A fraternal
9 benefit society is considered solvent if its admissible assets are
10 equal to or greater than its liabilities.]

11 SECTION 3. The changes in law made by this Act to Section
12 885.311, Insurance Code, apply only to an assessment by a fraternal
13 benefit society with an effective date on or after January 1, 2020.
14 An assessment by a fraternal benefit society with an effective date
15 before January 1, 2020, is governed by the law as it existed
16 immediately before the effective date of this Act, and that law is
17 continued in effect for that purpose.

18 SECTION 4. This Act takes effect September 1, 2019.

President of the Senate

Speaker of the House

I certify that H.B. No. 1251 was passed by the House on April 18, 2019, by the following vote: Yeas 138, Nays 9, 2 present, not voting; and that the House concurred in Senate amendments to H.B. No. 1251 on May 22, 2019, by the following vote: Yeas 119, Nays 22, 3 present, not voting.

Chief Clerk of the House

I certify that H.B. No. 1251 was passed by the Senate, with amendments, on May 15, 2019, by the following vote: Yeas 31, Nays 0.

Secretary of the Senate

APPROVED: _____

Date

Governor